



City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, August 14, 2006, at 7:00 p.m.

1. Call to Order/Roll Call

The following were present:

Mayor Billy Bain
Vice Mayor Xavier Garcia
Councilman Bob Best
Councilman Paul C. Dotson
Councilman Rob Youngs

Also Present:

City Manager James R. Borgmann
Assistant City Manager Ronald K. Gorland
City Attorney Jan K. Seiden
Chief of Police H. Randall Dilling
Finance Director William Alonso
City Planner Richard E. Ventura
Interim Public Services Director Robert Williams
City Clerk Magali Valls

2. Invocation: Councilman Youngs offered the invocation.

Salute to the Flag: The audience participated.

3. Awards & Presentations:

3A) Oversight Presentation by Miami-Dade County Public Schools Regional 3 Superintendent George Núñez

Miami-Dade County Public Schools Regional 3 Superintendent George Núñez thanked Mayor

Bain for giving him the opportunity to attend the Council meeting and for the close working relationship that the City has with the public schools.

Mr. Núñez said that he is honored to introduce two new principals for Springview Elementary and Miami Springs Senior High. He explained that when a principal leaves it is a very anxious and trying time for the faculty, students and the community and he assured everyone concerned that he would be appointing high caliber people to lead the schools and take them to a different level.

Mr. Núñez introduced Springview Principal Maria “Mary” Menchero and Assistant Principal Michael Sell.

Principal Mary Menchero extended thanks for allowing her to share the opportunity to lead such a beautiful school that has a very high performing staff. She said that the plan for the year is to take the school to an even higher level of performance and to complete various beautification projects.

Mr. Núñez introduced Miami Springs Senior High School Principal Rafael Villalobos who was formerly the principal of Hammocks Middle School. He said that Mr. Villalobos is very personable and has very unique talents.

Principal Rafael Villalobos thanked Council for their support. He said that it is his pleasure to be at Miami Springs and to have the opportunity to take the students to the next level academically and within the community. Mr. Villalobos stated that he would begin working on school reform and transitioning the students into the university levels as well as vocational programs.

4. Open Forum:

Elections

Michael Gavila of 684 Morningside Drive stated that many residents spoke to him about changing the election date to coincide with the presidential or gubernatorial elections because there had been a low voter turnout during the Municipal election in April.

Mansions

Laura Pilgrim of 650 Nightingale Avenue said that large houses are being built on small family lots within the community, which is a trend throughout the country. She explained that the cities of Atlanta, St. Louis and Miami are looking into this issue and the large homes impact the character of a community.

Ms. Pilgrim stated that she would not want to live next door to a large house like one that was built on Raven Avenue and that the City should consider the impacts that large homes have on the character of the neighborhood.

City Attorney Jan K. Seiden said that the Board of Adjustment addressed this issue and the Chairman of the Board, Manuel Perez-Vichot, is in the process of gathering materials from other communities to submit as alternatives to resolve the problem, which is related to the volume of what could be built on a particular property.

Stop Signs

Laura Pilgrim stated that cars are speeding through her neighborhood, which is near the Dog Park by the high school. She explained that speeding had increased significantly because there are four blocks that do not have any stop signs, many children play in the area and she is terrified that an accident could happen. Ms. Pilgrim urged Council to consider the placement of additional stop signs.

Councilman Best explained that the Florida League of Cities is attempting to introduce legislation into the next session to eliminate the use of cellular telephones in school zones while using a motor vehicle.

Luau Pool Party

Nery Owens of 332 Payne Drive said that some Council members missed the Luau at the pool that was a fascinating family event with authentic Polynesian hula dancers and good food. She explained that the event was well attended, the residents had a good time and the Recreation Department staff should be commended for doing an outstanding job. Ms. Owens thanked Mayor Bain and his wife for attending.

Parking in the Swale

Tim Hawks of 549 Payne Drive referred to a letter that he wrote regarding parking in the swale in front of his home. He said that his neighbor has a small lot and has no place to park his seven cars except for the swale. Mr. Hawks was of the opinion that the City should adopt an ordinance prohibiting cars from parking in the swale without permission unless they own the adjacent property.

Attorney Seiden said that the general rule is that the swale areas are public right-of-ways that are not designated for anybody's particular use.

Council **requested** an agenda item for the next meeting to discuss parking in the swale.

5. Approval of Council Minutes: (5A, 5B and 5C approved in one motion)

5A) 06/26/2006 – Regular Meeting

Minutes of the June 26, 2006 Regular Meeting were approved as written.

Councilman Best moved to approve the minutes. Vice Mayor Garcia seconded the motion, which was unanimously carried on roll call vote.

5B) 07/10/2006 – Special Meeting

Minutes of the July 10, 2006 Special Meeting were approved as written.

Councilman Best moved to approve the minutes. Vice Mayor Garcia seconded the motion, which was unanimously carried on roll call vote.

5C) 07/27/2006 – Special Meeting

Minutes of the July 27, 2006 Special Meeting were approved as written.

Councilman Best moved to approve the minutes. Vice Mayor Garcia seconded the motion, which was unanimously carried on roll call vote.

6. Reports from Boards & Commissions:

6A) 06/14/2006 – Golf and Country Club Advisory Board – Minutes

Minutes of the June 14, 2006 Golf and Country Club Advisory Board were received for information without comment.

6B) 06/26/2006 – Board of Appeals – Minutes

Minutes of the June 26, 2006 Board of Appeals meeting were received for information without comment.

6C) 08/01/2006 – Code Enforcement Board – Minutes

Minutes of the August 1, 2006 Code Enforcement Board meeting were received for information without comment.

6D) 08/15/2006 – Education Advisory Board – Cancellation Notice

Cancellation Notice of the August 15, 2006 Education Advisory Board meeting was received for information without comment.

6E) 08/07/2006 – Zoning and Planning Board – Cancellation Notice

Cancellation Notice of the August 7, 2006 Zoning and Planning Board meeting was received for information without comment.

6F) 08/09/2006 – Golf and Country Club Advisory Board – Cancellation Notice

Cancellation Notice of the August 9, 2006 Golf and Country Club Advisory Board meeting was received for information without comment.

6G) 09/07/2006 – Code Enforcement Board – Cancellation Notice

Cancellation Notice of the September 7, 2006 Code Enforcement Board meeting was received for information without comment.

6H) 08/10/2006 – Board of Parks and Parkways – Cancellation Notice

Cancellation Notice of the August 10, 2006 Board of Parks and Parkways meeting was received for information without comment.

6I) 08/07/2006 – Board of Adjustment – Approval of Actions Taken at their Meeting of August 7, 2006, Subject to the 10-day Appeal Period

Actions taken by the Board of Adjustment at their meeting of August 7, 2006 were approved subject to the 10-day appeal period.

Councilman Best moved to approve. Vice Mayor Garcia seconded the motion which was carried 5-0 on roll call vote.

7. Public Hearings:

None.

8. Consent Agenda:

8A) Approval of the City Attorney's Invoice for July 2006 in the Amount of \$7,601.00

There was no discussion regarding this item.

Councilman Dotson moved to approve. Councilman Youngs seconded the motion which was carried 5-0 on roll call vote.

9. Old Business:

9A) Appointment to the Ecology Board by Mayor Bain for a Full 3-Year Term Ending on April 30, 2009 (Joe Podgor's seat)

Mayor Bain **deferred** his appointment to the Ecology Board.

9B) Appointment to the Ecology Board by Councilman Youngs (Group IV) for an Unexpired Term Ending on April 30, 2007 Created by the Resignation of Donna Dawson

Councilman Youngs (Group IV) **deferred** his appointment to the Ecology Board.

9C) Appointment to the Civil Service Board by Vice Mayor Garcia (Group III) for a Full 3-year Term Ending on June 30, 2009

Vice Mayor Garcia (Group III) **deferred** his appointment to the Civil Service Board.

9D) Appointment to the Education Advisory Board by Councilman Youngs (Group IV) to Fill an Unexpired Term Ending on May 31, 2007 (Dorrene Cook's seat)

Councilman Youngs (Group IV) **deferred** his appointment to the Education Advisory Board.

9E) Discussion Regarding Code Section 150-002 – Definitions – (C) (38) *Floor Area* - (c) Attic Space, whether or not a floor actually has been laid, providing structural headroom of

less than seven feet six inches (Tabled: 6/26/06)

City Manager Borgmann stated that this agenda item was tabled in June regarding Code Section 150-002 – Definitions – (C) (38) *Floor Area* - (c) Attic Space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.

City Planner Richard Ventura said that Ordinance # 599-77 was adopted on March 28, 1977, and after researching the minutes he found no discussion regarding the floor area or attic space. He felt that the exception for attic space should be explained by a professional. He said that architect Ramon Valdes-Denis was present to provide some insight as to why this particular exclusion may have been adopted almost 30-years ago.

City Attorney Seiden stated that Ordinance # 599-77 was a comprehensive re-zoning ordinance when the entire zoning code was changed with the assistance of consultants Stutsman and Associates.

Councilman Dotson said that he spoke with Mr. Valdes-Denis who was going to call the City of Miami Beach to get additional information.

Ramon Valdes-Denis of 656 South Drive said that he called Miami Beach and they could not provide any information about the code regulation regarding attic space. He explained that the attic space is designed to serve as a mechanical room or space to maintain equipment. The Code requires a minimum ceiling height of seven feet six inches and a room less than that height would

not be approved for any use other than attic space.

Councilman Dotson stated that the ordinance should be more specific about limiting the attic space to one confined area. He felt that all the definitions should have been reviewed as part of the process when Council considered adding four additional definitions.

Mr. Valdes-Denis felt that it is the responsibility of the building and zoning officials to regulate the use of the attic space. He reiterated that any space less than seven feet six inches would not be approved as a floor for office space.

Councilman Youngs said that the concern is related to the occupational use of attic space and the total building height. He explained that the floor area ratio definition governs the size of the building and the lot and the total height of the building is a separate limitation. He suggested adding language to define the attic space as a room for the storage of mechanical electrical, or other similar equipment.

City Attorney Seiden stated that language could be added to indicate that attic space is to be used for mechanical, plumbing, electrical, air conditioning conduit or other support services for the building, and not for occupancy.

To answer Councilman Best's question, Mr. Valdes-Denis said that the attic space is normally next to the mechanical room and not on the top floor.

Attorney Seiden said that a building designed with 7' 6" for attic space would not be an addition to the height of the building. The attic would be included in the total height and the only way the height could be varied is by variance.

City Attorney Seiden will draft an ordinance for Council review.

9F) Request Council Approval to Pay for Settlement Amount to the Internal Revenue Service for the MR106 Health Plan Audit

City Manager Borgmann stated that this item is a request for Council to approve payment of the settlement amount to the Internal Revenue Service (IRS) for the MR-106 Health Plan audit.

City Manager Borgmann said that on September 27, 2004, the former Council was advised of an investigation by the Department of Justice related to a company that provided the City with a

health savings plan that was under investigation for defrauding the government. The health savings plan was introduced to the City in 2000 and promised to save approximately \$100,000 a year that could be applied to health insurance costs.

City Manager Borgmann explained that when he was appointed to the position of City Manager in 2003, he was told that the plan was illegal and the City backed out of the plan in January 2004. He said that the plan turned out to be legal but it was not administered properly by a company called the Redwood Group.

City Manager Borgmann said that the good news is that the City saved approximately \$300,000 by using the plan and the bad news is that the City must give \$109,000 to the IRS. The City hired Tax Attorney David Garvin who helped negotiate with the IRS agent who was in charge of the audit. They pointed out additional changes that were needed and the changes have already been implemented in the organization, including certain ways that income is reported to part-time employees and contractors.

City Manager Borgmann said that the balance due to the IRS is \$109,000 and the final cost for Mr. Garvin's services is estimated to be \$15,000. He said that a \$5,000 retainer was already paid to Mr. Garvin. He is requesting approval of an additional \$10,000 to cover the cost of his services.

Councilman Dotson asked how the \$309,000 benefit was calculated. He said the IRS would be paid for the federal withholding taxes and FICA contributions for the employees involved.

City Manager Borgmann said that it was estimated that the plan would save the City approximately \$100,000 a year, plus or minus. He explained that the assessment covers only the 2002 and 2003 calendar years since, due to the statute of limitations, the IRS could not go back to calendar years 2001 and 2002.

Councilman Dotson inquired if the City could get a refund from the Redwood Group.

City Attorney Seiden stated that it is unlikely that the City could get a refund because the City would have to intervene with the Federal Court in Chicago. The plan was technically legal at the time, but it was not administered properly by the Redwood Group, and the City basically delayed paying taxes. He explained that it was fortunate that the IRS could not go back to years 2001 and 2002, and the City was part of a group that was presented with a nation-wide settlement.

Councilman Youngs asked if agent liability was determined since Redwood was an underwriter of the plan. He wanted to clarify that opinions were rendered that the plan was legal and proper.

Attorney Seiden said that the opinions were provided by reputable accountants and lawyers when the plan was first presented and when asked for his opinion, he advised checking with the City auditors and they confirmed that the plan was okay.

Councilman Youngs clarified that the City did not make a mistake because the plan was legal but it was administered improperly.

Attorney Seiden explained that it would not be fair to point blame exclusively in other directions because some of the internal administration of the plan by the City was not done 100% according to the way it was suggested. He explained that the government changes its rulings on various laws.

Vice Mayor Garcia moved to approve payment of the settlement as well as payment to the attorney. Councilman Youngs seconded the motion which was carried 5-0 on roll call vote.

9G) Status Report – Interlocal Agreement with Virginia Gardens

City Attorney Seiden reported that he sent correspondence to the Village of Virginia Gardens approximately one year ago. In the interim, he spoke with Mayor Deno and Attorney Jose “Pepe” Herrera and they agreed to set up a meeting to talk sometime next week.

Attorney Seiden stated that it was determined that the past due sewer accounts total approximately \$24,000 and the agreement would help to correct the problem with future collections. He explained that the agreement was put into final form, except for a few minor revisions that had to be made, and it was Virginia Gardens’ responsibility to enact an ordinance. He said that he objected to their proposed ordinance and provided another draft.

City Attorney Seiden explained that the City normally turns off the water when a sewer account is not paid but the City of Miami Springs does not have the right to turn off the water for Virginia Gardens’ accounts without an appropriate agreement.

City Manager Borgmann clarified that the larger commercial buildings in Virginia Gardens that were built after a certain date are Miami Springs’ sewer customers and there are a few single-family residences that were mandated to connect to the system by the County.

9H) Authorization to Send Petition to Amend the City Charter to the Miami-Dade

County Elections Department for Verification of Signatures

City Manager Borgmann stated that Council authorization is requested to send the petitions to amend the City Charter to the Miami-Dade County Elections Department for verification of signatures.

Buzz Fleischman of 810 Pinecrest Drive stated that this is a grass roots citizen initiative to amend the City Charter, which is a serious matter not to be taken lightly by serious minded residents. He said that every resident should have the opportunity to vote on a very important long-term issue and he would like to reinforce the strong feelings of the community about the issue of high-rise condominiums.

Mr. Fleischman said that more than 1,430 signatures were gathered from residents who want the following question on the ballot:

“Any building that includes more than 2 residential dwelling units shall not exceed 3 stories and a maximum of 40-feet in height”

Mr. Fleischman asked Council to accept the petitions that would be validated by the Miami-Dade County Elections Department. He said that the question could possibly be placed on the November 7th ballot and the City would not have to pay for a stand-alone election. Mr. Fleischman stated that every resident would have the right to vote for or against amending the Charter.

City Attorney Seiden explained that the item on the agenda is for Council to authorize the City Clerk to send the petitions that were validly submitted to her to the Miami-Dade County Elections Department for verification. He said that one petition was subsequently turned in after the deadline with four signatures that is not acceptable.

Attorney Seiden stated that the 162 remaining petitions would be sent for verification the next day and a letter would be sent to the attorney representing the Citizen’s group to notify him of what is going to happen.

Vice Mayor Garcia moved to approve. Councilman Best seconded the motion which was carried 5-0 on roll call vote.

10. New Business:

10A) Appointment to the Golf and Country Club Advisory Board by Vice Mayor Garcia (Group III) to Fill an Unexpired Term Ending on July 31, 2007 Created by 3 Absences of Phyllis Causey

Vice Mayor Garcia (Group III) **re-appointed** Phyllis Causey to the Golf and Country Club Advisory Board.

10B) Appointment to the Historic Preservation Board by Councilman Dotson (Group II) to Fill an Unexpired Term Ending on February 28, 2008 Created by 3 Absences of Yvonne Shonberger

Councilman Dotson (Group II) **re-appointed** Yvonne Shonberger to the Historic Preservation Board.

10C) Appointment of City Representative to One or More of the Florida League of Cities Legislative Councils

City Manager Borgmann stated that the Florida League of Cities is forming new committees to help formulate their legislative agendas. They are requesting that each city be represented on one or more of the League's Legislative Councils and the deadline to respond is Friday, August 18th.

City Manager Borgmann explained that the four Councils are Municipal Service Delivery, Urban Planning, Fiscal Stewardship and Home Rule Administration and the League is asking for one representative for each committee. Participation will require attendance at meetings in Orlando proposed to be held on September 15, October 20, November 16, 2006 and August 16, 2007.

Vice Mayor Garcia volunteered Councilman Best.

Councilman Best stated that he would be interested in the Home Rule Administration Council because it is a statewide issue that was discussed at the League Conference and he would like to become more educated by serving on that committee.

Councilman Youngs said that participation would take a lot of time and he would be willing to serve on the Urban Planning Council. He suggested that Councilman Dotson could serve on the Fiscal Stewardship Council.

Councilman Dotson stated that he currently serves on three boards, including the Noise Abatement Task Force. He explained that he is interested in all four Councils because they are worthwhile.

Councilman Best inquired if all Councils would meet on all four of the proposed dates.

Councilman Youngs said that he would not want to duplicate expenses if only one representative could attend several meetings.

Councilman Best agreed that he could serve on the Home Rule Administration Council and attend all four meetings.

Councilman Youngs said that he would defer to Councilman Best if only one person can attend.

City Manager Borgmann explained that one person could serve on each of the Councils but the League does not want two representatives to serve on one Council.

Councilman Best asked if all four Councils would meet simultaneously or if they would meet at different times during the day on each of the proposed dates. He said that sending one Council member would help to control expenses.

City Manager Borgmann felt that because the meeting dates are so close together that a different Council would meet on each date but that he would call the League to find out.

Mayor Bain agreed that Councilman Best would represent the City.

10D) Approval of Expenditure to Advertise and Attend the Miami-Dade County League of Cities 53rd Annual Installation Dinner

City Manager Borgmann requested that Council approve an expenditure to attend the Miami-Dade County League of Cities Annual Installation Dinner.

Mr. Borgmann explained that a table of ten costs \$1,250.00; individual tickets are \$145.00 and advertising sponsorships range in price from \$175.00 for a ¼ page black and white ad up to \$1,000 for a full color page ad.

Councilman Youngs moved to approve the purchase of one table and placing a ¼ page black and white ad. Vice Mayor Garcia seconded the motion which was carried 5-0 on roll

call vote.

10E) First Reading – Ordinance – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Sections 150-041, R-1A District, 150-042, R-1B District, 150-043, R-1C District, and 150-044, R-1D District; by Clarifying the Requirement for Additional Side Yard Setback Area for Second Story Structures in all Single Family Residential Districts; Providing for an Exception to the Additional Side Yard Setback Area for Second Story Structures in all Single Family Residential Districts; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden explained that this ordinance deals with all four residential districts and he re-clarified (a) and (b) in subsection 3 – Exceptions to additional side yard setbacks as follows:

No additional two and one-half foot side yard setback shall be required under the following circumstances:

- (a) The second-story addition covers less than half of the existing first floor area of the structure.
- (b) The second-story addition is recessed two and one-half feet from the vertical building line of the first floor of the existing structure on both side yard areas.
- (c) The second-story addition is located in such a manner that a side yard area of the structure abuts a street. However, the requirement to provide an additional two and one-half feet of side yard setback for second-story additions remains applicable to the interior side yard areas of structures abutting streets.
- (d) The provisions of subsection (c) above shall also be applicable to all appropriate instances of reverse frontage that may exist.

Councilman Youngs moved to approve. Councilman Garcia seconded the motion which was carried 5-0 on roll call vote.

10F) First Reading – Ordinance – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-002 (79), Definitions – Yard, Side; by Deleting a Portion of the Existing Definition and Clarifying Certain Other Definition

Language; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden explained that some of the language was restated for clarification. Eaves or overhangs may extend no more than 30 inches into the minimum side yard setback, nor closer than three feet to the side property line. He removed the following language:

“no portion of a central air conditioning or heating unit shall be located in any minimum side yard setback area.”

City Attorney Seiden suggested advancing to agenda item 10 H, which is a companion ordinance.

Councilman Youngs moved to approve. Councilman Best seconded the motion which was carried 5-0 on roll call vote.

Agenda Item 10H discussed at this time.

Agenda Item 10G discussed after agenda item 10H.

10G) First Reading – Ordinance – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-010, Roof Materials, Requirements, and Re-roofs; by Providing a Conditional Exception Provision for the Use of Flat Roofs on “Open Patios”; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden explained that since the Code for flat roofs was amended a few months ago, one of the experiences at the Board of Adjustment was that variances were requested for flat roofs on open patios that would not be enclosed. He added that a pitched roof would be cost prohibitive and it would not look appropriate.

City Attorney Seiden stated that variances were approved for cases dealing with this matter and it would be better to change the Code by legislation rather than variance.

The City Attorney read the following provision:

- (E) Notwithstanding the foregoing, flat roofs will be permitted on “open patios”, which constitute non-living space, so long as the property owner agrees that the patio area will never be enclosed so as to constitute “living space”, and will execute a recordable and appropriate “Covenant Running With-the-Land” to provide notice to future purchasers of the property and further assurances of compliance to the City.

Councilman Dotson stated that flat roofs for open patios should be limited to the back yard and Attorney Seiden agreed to amend the ordinance to clarify this point.

Vice Mayor Garcia asked if variances would be granted for properties with reverse frontages.

Attorney Seiden said that he would include a provision for reverse frontage situations.

Discussion ensued regarding screened patios and Council agreed to add language prohibiting flat roofs for screened patios.

Councilman Best moved to approve the ordinance as amended and Vice Mayor Garcia seconded the motion which was carried 5-0 on roll call vote.

10H) First Reading – Ordinance – An Ordinance of the City Council of the City of Miami Springs Enacting New Code of Ordinance Section 150-034, Installation of Central Air Conditioning and Heating Units; Providing for Equipment Location on New and Existing Homesites; Establishing an Exception for Equipment Location on New Homesites; Delineating Installation Standards and Requirements; Providing for Supervision and Control of Installations; Directions to Codifiers; Repealing All Ordinances or Parts of Ordinances in Conflict; Effective Date

City Attorney Jan K. Seiden read the ordinance by title and the following provisions:

- (A) Location Property – New Construction – Central air conditioning and heating units to be installed in conjunction with the construction of new residential structures may only be located in the rear yard area of homesites.

- (B) Location Property – Existing Homesite – The aforesaid provision shall not be applicable to central air conditioning and heating units that are being replaced for already existing residential structures, which may be installed in the same location as the equipment being replaced.
- (C) Location on Property – Exception – Central air conditioning and heating units to be installed in conjunction with the construction of new residential structures may be located in the side yard areas of homesites which abut streets. Additionally, this same provision shall be applicable to appropriate instances of reverse frontage homesites.
- (D) Installation Standards and Requirements – All central air conditioning and heating units shall only be installed in accordance with the rules, regulations and requirements of the City of Miami Springs, Miami-Dade County and the Florida Building Code of the State of Florida.
- (E) Installation Supervision and Control – The installation of central air conditioning and heating units on residential homesites within the City shall be supervised and controlled by the City Building Department.

Councilman Youngs moved to approve. Vice Mayor Garcia seconded the motion which was carried 5-0 on roll call vote.

10I) Consideration of Increase in Sanitation Fees

City Manager Borgmann stated that a letter was received from Miami-Dade County Solid Waste Management notifying the City that the disposal fees would increase by 4.5% effective October 1, 2006.

City Manager Borgmann said that in accordance with paragraph (c) Annual Cost of Living Adjustments in the rate chart approved under Resolution 2005-3289, the Administration requests approval to increase the sanitation rates from the current \$34.90 per month to \$36.50 per month effective October 1st in order to reflect the 4.5% increase.

Councilman Youngs moved to approve. Councilman Dotson seconded the motion which was carried 5-0 on roll call vote.

City Manager Borgmann stated that the City is fortunate not to have to pay a transfer fee.

Mayor Bain reminded the Administration that the deadline for providing the information that the County is requesting related to the transfer of the Water and Sewer system is August 25, 2006. He asked for assurance that Post, Buckley, Schuh and Jernigan would provide the necessary information prior to the deadline because they did not cooperate in the past.

11. Other Business: None

12. Reports and Recommendations

12A) City Attorney

Cell phones

City Attorney Jan K. Seiden stated that a letter and form resolution was received from the City of Miami Beach urging the state legislature to change the state law in regard to precluding cellular telephone usage by motor vehicle drivers in school zones. He said that Miami Beach Commissioner Richard Steinberg is asking all Miami-Dade municipalities to prepare a resolution.

By consensus, Council **agreed** to direct the City Attorney to prepare an appropriate resolution for consideration at the next meeting.

Variance Request

City Attorney Seiden said that it is always better to legislate than to vary when Council feels that it is appropriate to change the Code. He called Council's attention to one Board of Adjustment case that might or might not be appealed, which was a request to allow a shingle roof for a commercial location rather than cement tile and it was denied by a 3-2 vote. He said that this type of request would be more properly dealt with on a legislative basis by adopting an ordinance.

22 Pinecrest Drive

Vice Mayor Garcia referred to the property located at 22 Pinecrest Drive that was denied a variance to subdivide the lot into two smaller lots. He said that something should be done about the deplorable property condition or to control the percentage of development on a lot.

City Attorney Seiden stated that the property owner could appeal the decision of the Board of Adjustment, and the case should not be discussed at this time. He said that there are legitimate issues on both sides of the case and it is really a matter for Council to consider.

12B) City Manager

Aladdin Motel

City Manager Borgmann said that the earliest document that was found in regard to the Aladdin Motel was a letter from the developer to the former City Planner dated October 29, 1999. He explained that City Planner Ventura has requested to review the file on the project from Post, Buckley, Schuh & Jernigan, Inc. to see if there is any earlier correspondence.

Insurance Public Hearing

City Manager Borgmann announced that an insurance public hearing/idea raiser is scheduled for Saturday, August 19, 2006 from 10:00 a.m. to 4:00 p.m. at Coral Gables High School that is being sponsored by State Representative Julio Robaina regarding the property insurance crisis throughout the state.

Vice Mayor Garcia said that the state legislature needs help and feedback from the local government officials who are against property insurance increases. He urged everyone to contact their state senators and representatives.

Budget Workshop

City Manager Borgmann reminded Council that the next budget workshop is scheduled for Monday, August 21, 2006 and to bring their budget notebook.

Golf Course

City Manager Borgmann reported that the new greens were mowed for the first time today and hopefully they will be ready for the September 23, 2006 Founder's Day Tournament. Most of the proceeds go to support Junior Golf.

Soccer Registration

City Manager Borgmann announced that soccer registration is in process and the registration dates and times are posted on the Community Bulletin Board on Channel 77 and the City's website.

Disability Advisory Board

City Manager Borgmann said that the Disability Advisory Board met to review the funding and recommend projects to be funded with the proceeds of the County handicap parking fines totaling approximately \$2,700.

The City Manager said that the recommendation of the Board is to purchase additional exercise equipment for the swimming pool that will be presented to Council at the next meeting.

Football Program

Mayor Bain announced that players are needed to participate in the football program and City Manager Borgmann agreed to post the information on the Bulletin Board.

12C) City Council

“Mc Mansions”

Councilman Dotson reported that he had received many calls and comments from residents who are concerned about the “Mc Mansions”. He felt that it is time for Council to consider the matter as an agenda item for discussion because no one wants so much concrete on a piece of land and perhaps that could be addressed by changing the setbacks or limiting the percentage of development on the property.

Aladdin Motel

Councilman Dotson stated that everyone has mentioned the problems with the Aladdin Hotel and his last recollection was that the type of garages that would be permitted was still open for discussion, which was months ago. He heard that City Officials were meeting with the property owners and he never received a report.

Councilman Dotson said that he is interested in knowing if there were district boundary regulations in place to allow the construction and how the permits were approved. He would like to review the records to know if there were a series of mistakes, why they were made and how they can be avoided in the future. He said that a question was raised as to the legality of the

construction and he would like to know the answer.

Water Rates for Apartments and Condominiums

Councilman Dotson inquired about the adjusted base water rate that is proposed for the apartments and condominiums. He asked if the residents would have a chance to speak at a public hearing in September regarding the rate change.

City Manager Borgmann explained that Council repealed the rate change and a new rate is proposed that will be advertised and considered as part of the budget hearings.

Basin 14 Storm Drainage Project

Councilman Dotson asked about the status of the Plover Avenue storm drainage project.

City Manager Borgmann stated that Petro Hydro damaged a sewer line that was repaired last weekend and the company was put on notice that their contract expires on Wednesday, August 16th. He explained that they have not asked for any extensions related to weather delays, which normally a contractor can request, and the last step that remains to be done is the asphalt overlay.

Mr. Borgmann said that Council agreed to test the area and the response was that they were going to dig sixty 2' x 2' holes in the asphalt. Since there has been no further degradation of the area with the recent heavy rains, it was decided not to move in that direction because it could create more problems for the residents. The work is guaranteed for one-year for any failures and the contractor will be responsible for repairs.

Mayor Bain said that the residents were promised that the tests would be performed to ensure that there would not be any sinkholes and they would understand that the test holes are being dug at their request.

Councilman Dotson questioned the need to dig sixty holes. He was of the opinion that the City should follow through with the tests.

City Manager Borgmann explained that sixty test holes were recommended to assure that the entire area is okay.

Interim Public Services Director Robert Williams clarified that the City solicited quotes from three contractors and all three said that sixty holes were required, which would be quite invasive. He

said that if the testing finds a problem with the work done by Petro Hydro, they could say that digging the sixty holes compromised the integrity of the work and there is no guarantee that they could be held liable.

Councilman Dotson suggested limiting the testing to the one area where the cave-ins occurred.

Councilman Youngs explained that cost is not a factor, it is the disruption of digging so many holes. He asked the Administration to check with the consultants to determine if the digging could be limited to one area.

Mayor Bain suggested contacting the residents who expressed their concern about Petro Hydro's work to ask for their opinion about the test holes.

Councilman Youngs asked if a problem is found with the compaction of the fill in a one or two block section if it would be consistent throughout the rest of the project.

Interim Public Services Director Williams said that in speaking with the testing companies and Post, Buckley, Schuh and Jernigan (PBSJ), they both indicated that cave-ins happen in this type of work. He explained that PBSJ feels that the work is fine and that a cave-in would not happen again.

City Manager Borgmann stated that there are different field conditions in all projects because the underground material could vary from block to block.

Vice Mayor Garcia said the cave-in that happened on Plover and Apache never happened before the work was done.

Mr. Williams stated that the residents should understand that the testing process would subject them to traffic detours, dust and more inconvenience.

Vice Mayor Garcia said that the residents should be informed about the process so that they can give their feedback to Council in order to determine what is best for the entire community.

Councilman Dotson asked how many insurance claims are pending related to this project.

City Manager Borgmann said that Petro Hydro's insurance adjuster is making contact with the residents. He offered to check with Risk Manager Loretta Boucher to find out the number of open claims.

ALF – Occupational License

Vice Mayor Garcia stated that the occupational license list indicated another Adult Living Facility (ALF) opening in the City and he would like to know about the signage.

City Manager Borgmann explained that the City could adopt the County ordinance as it relates to signage and the City Attorney could draft an ordinance to present at the next meeting.

Attorney Seiden stated that the resolution dealing with the Citation System would have to be amended in order to enforce the ordinance.

Soccer Program

Vice Mayor Garcia announced that volunteer referees and coaches are needed for the soccer program. He wished the kids luck during the season and thanked the volunteers for the time they invest in the development of the children.

City Manager Borgmann said that he would post the message on Channel 77.

Schools

Vice Mayor Garcia reminded everyone that school is back in session and to be more attentive to speed and safety in the school zones.

Florida League of Cities

Councilman Best stated that his recent trip to the Florida League of Cities Annual Conference in Jacksonville was very informative. He met and discussed issues with representatives from many cities and brought back many ideas that he shared with the City Manager.

FEC Borrow Canal Clean-up

Councilman Best reported that the progress on the dredging and cleaning of the FEC canal is

moving along and the railroad is responsible for the trees on the west side of the canal.

“Mc Mansions”

Councilman Best thanked Laura Pilgrim for expressing her concern about the “Mc Mansions”, which seems to be an issue throughout the City. He would welcome an agenda item to discuss the concerns and although the new homes would create additional tax revenue, they could ruin the character of the neighborhood.

Water and Sewer

Councilman Best stated that he wanted to quantify a statement that he made at a previous meeting when he thanked Councilman Dotson for solely pursuing the take over of the water and sewer system by the County. He said that although Councilman Dotson led a major charge, that he did not want to discount Mayor Bain’s efforts because he deserves credit for spearheading the idea.

Insurance Public Hearing

Councilman Best urged everyone to attend the insurance public hearing/idea raiser in Coral Gables on Saturday, August 19th to let the state officials know how they feel about the insurance crisis. He met with gubernatorial candidate Tom Gallagher in Jacksonville who was responsible for putting together the state insurance fund.

Disability Advisory Board

Councilman Best thanked Joan Paul for her work on the Disability Advisory Board.

Sprinkler System Damage

Councilman Best asked the Administration to follow up on a complaint from Victor Marion who lives on the southeast corner of Pocatella and Westward Drive regarding damage to his sprinkler system as a result of the Westward Drive improvement project.

Insurance – Golf Course

Mayor Bain said that he requested information at the August 8, 2006 Budget Workshop meeting about the insurance coverage for the Golf Course and he would like to receive it prior to the next meeting.

City Manager Borgmann agreed to provide answers to Council's questions prior to the August 21, 2006 Workshop meeting.

Thank You

Mayor Bain thanked Regional 3 Superintendent George Núñez and the principals from Springview and Miami Springs Senior High School for attending the meeting.

13. Adjourn.

There being no further business to be discussed the meeting was adjourned at 9:12 p.m.

Billy Bain
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

Approved as written during meeting of: 8/28/2006

Transcription assistance provided by S. Hitaffer

Words ~~-stricken through-~~ have been deleted. Underscored words represent changes. All other words remain unchanged.